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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/550,043   | 09/26/2006  | Fritz Krause         | 85934.000055        | 8089             |
| 23387  | 7590        | 07/16/2010           | EXAMINER            |                  |
| Stephen B. Salai, Esq.<br>Harter Secrest & Emery LLP<br>1600 Bausch & Lomb Place<br>Rochester, NY 14604-2711 |             |                      | REDMAN, JERRY E     |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3634                |                  |
|  |             |                      | NOTIFICATION DATE   | DELIVERY MODE    |
|  |             |                      | 07/16/2010          | ELECTRONIC       |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

bsalai@hselaw.com  
coffen@hselaw.com

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/550,043             | KRAUSE, FRITZ       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Jerry Redman           | 3634                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 April 2010.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-32 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-32 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1.) Certified copies of the priority documents have been received.  
 2.) Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____ .                        |

The status of the claims is as follows:

Claims 1-32 (27-32 newly added) are herein addressed below.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3-8, 10-14, 16-21, 23-27, 29, 30, and 32 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Mesnel (4,470,223) in view of Schroder et al. (4,809,463). As shown in Figures 3-6, Mesnel (4,470,223) discloses a one piece (column 2, lines 13-18) elastomeric weather seal comprising two U-shaped reinforced metal core mounting elements (two parallel sides and a middle portion, i.e., a connecting brace as recited in the patent) attached to a door frame, hollow sealing lips (shown in figure 6 but replaceable with any of the sealing lips in the embodiments, column 2, lines 37-38), flocking on the hollow sealing lips, flocking on a bottom portion forming the channel for guiding a window pane, and retaining lips projecting from the U-shaped reinforced mounting elements. Mesnel (4,470,223) fails to disclose an integral one-piece elastomeric weather seal. As shown in Figure 2, Schroder et al. (4,809,463) discloses a one-piece elastomeric weather seal attached to a vehicle. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the weather seal of Mesnel ('223) to be an integral one-piece elastomeric weather seal as taught by Schroder et al. (4,809,463) since an integral one-piece weather seal is

cheaper to manufacture and easier to attach to a vehicle since there is only a single element. [note: Although the figures and specification of Mesnel ('223) are not clear in whether the weather seal is a single integral piece or separate pieces, a 35 U.S.C 103 rejection with Schroder et al. (4,809,463) shows that integral vs. separate is not patentable]

Claims 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mesnel ('223) and Schroder et al. (4,809,463) as applied to claim 1 and further in view of Herr (3,333,364). All of the elements of the instant invention are discussed in detail above except providing a hollow seal along a bottom/base portion. Herr ('364) discloses a weather seal having a base portion (2) with a hollow portion (33). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the modified weather seal of Mesnel ('223) with a hollow sealing portion along the bottom/base portion as taught by Herr ('364) since the bottom portion having a hollow sealing element enhances the sealing characteristics of the weather seal thereby improving the seal between the window pane and the door frame.

Claims 9, 22, 28, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mesnel ('223) and Schroder et al. (4,809,463) as applied to claim 7 above and further in view of Patent application publication no. 2003/0019160 to Oda et al. All of the elements of the instant invention are discussed in detail above except providing a hollow sealing element divided by a web. Patent application publication no. 2003/0019160 to Oda et al. disclose a weather strip having a hollow sealing element

(30) having a web projecting from a U-shaped mount of a weather strip. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the modified weather strip of Mesnel ('223) with a hollow seal with a web as taught by Patent application publication no. 2003/0019160 to Oda et al. since a hollow seal portion having a web increases the sealing characteristics between the weather strip and the frame since the hollow portion allows flexibility and the web provides rigidity to the hollow portion.

The applicant's arguments have been considered but are not deemed persuasive. As stated in detail above, Mesnel ('223) fails to clearly and positively recite in its disclosure that the seal is a single seal or separate; but in light of customer service and wrangling over a bad drawing and a vague specification, the Examiner took the next step in a 35 U.S.C. 103 rejection to state that separate vs. integral and visa verse is well known and supported by the courts. Therefore, it would have been obvious to one of ordinary skill in the art to provide the seal of Mesnel ('223) to be a one piece integral seal thereby providing a more rigid sealing strip. Furthermore, as shown in the prior art, there are several patents which disclose two U-shaped mounting weather-strip connected together.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-TH from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Mitchell, can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Jerry Redman  
Primary Examiner  
Art Unit 3634

/Jerry Redman/  
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